

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Part 250

RIN 0584-AB99

Waiver Authority Under the State Processing Program

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Food Distribution Program regulations by giving the Food and Consumer Service authority to waive provisions contained in the Food Distribution Program regulations at 7 CFR part 250. This authority would be used to conduct, in one or more areas of the United States, demonstration projects designed to test program changes to determine whether the changes would improve the State processing of donated foods.

DATES: To be assured of consideration, comments must be postmarked on or before May 15, 1995.

ADDRESSES: Comments should be sent to Phil Cohen, Chief, Policy and Program Development Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 502, Alexandria, Virginia 22302. Comments in response to this rule may be inspected at 3101 Park Center Drive, room 506, Alexandria, Virginia, during normal business hours (8:30 a.m. to 5 p.m.), Mondays through Fridays.

FOR FURTHER INFORMATION CONTACT: David Seger, Policy and Program Development Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 502, Alexandria, Virginia 22302; or telephone (703) 305-2660.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act

This proposed rule reflects no new information collection requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3502). The OMB control number assigned to the existing recordkeeping and reporting requirements was approved by OMB for Part 250 under control number 0584-0007. The current burden hours will not change as a result of this proposed rule.

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance under 10.550 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, Subpart V and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22676, May 31, 1984).

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This proposed rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. This includes any administrative procedures provided by State or local governments. For disputes involving procurement by distributing and recipient agencies, this includes any administrative appeal procedures to the extent required by 7 CFR Parts 3015 or 3016.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C.

601-612). The Administrator of the Food and Consumer Service (FCS) has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. The cost of compliance to State processors of donated foods is expected to be reduced by the changes proposed in this rule.

Background

Section 250.30 of the current Food Distribution Program regulations sets forth the terms and conditions under which distributing agencies, subdistributing agencies, and recipient agencies may enter into contracts with commercial firms for processing donated foods and prescribes the minimum requirements to be included in such contracts.

Discussion of Proposed Rule

The State processing regulations contain provisions specifically intended to ensure that processors account for all donated foods in the manufacture of end products and pass on the full value of the donated food as savings to eligible recipient agencies. In the late 1970's and the early 1980's, audits conducted by the Department of Agriculture's Office of Inspector General disclosed significant abuses in the processing program. As a result of these audits, certain requirements were incorporated to ensure that processors properly account for the donated food, such as the certified public accountant audit report requirement at §§ 250.18(b) and 250.30(c)(4)(xi), the requirement for Agricultural Marketing Service (AMS) acceptance service grading of meat and poultry products at § 250.30(g) and (h), and the performance supply and surety bond requirement at § 250.30(c)(4)(viii)(B).

In recent years, it has been pointed out that some of the provisions contained in the State processing regulations are overly restrictive. As a result of the restrictions, some commercial processors have opted to no longer participate in the program. The Food and Consumer Service (FCS) is aware that new companies are not willing to enter into agreements with the distributing agencies, thus eroding competition. Processors have also commented that compliance with some of the provisions in the regulations has increased their cost of producing end products. These increased costs are in

turn being passed on to the recipient agencies.

In addition, FCS' review of the certified public accountant audit reports submitted by multi-State processors participating in the processing program has disclosed that the majority of processors participating in the program are operating in compliance with the regulations and their processing agreements. Also, representatives from AMS have indicated that processors are properly accounting for meat and poultry.

FCS is interested in attracting more companies to participate in the processing program in order to increase competition. Increased competition should lower costs, improve quality, and provide a greater variety of end products for recipient agencies. Reducing unnecessarily burdensome requirements should further reduce the cost to recipient agencies. FCS has identified certain provisions in the regulations that could be modified or eliminated. The Department is interested in conducting demonstration projects in these areas to determine if changing the rules will result in increased competition and lower costs in the program. In order to conduct such projects, it will be necessary for FCS to waive certain requirements contained in the regulations.

This rule proposes to permit FCS to waive any of the requirements of the Food Distribution Program regulations at Part 250 for the purposes of conducting demonstration projects to test program changes designed to improve the State processing of donated foods.

List of Subjects in 7 CFR Part 250

Agricultural commodities, Food assistance programs, Food processing.

For reasons set forth in the preamble, 7 CFR Part 250 is proposed to be amended as follows:

PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

1. The authority citation for Part 250 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 612c, 612c note, 1431, 1431b, 1431e, 1431 note, 1446a-1, 1859; 15 U.S.C. 713c; 22 U.S.C. 1922; 42 U.S.C. 1751, 1755, 1758, 1760, 1761, 1762a, 1766, 3030a, 5179, 5180.

2. In § 250.30, a new paragraph (t) is added to read as follows:

§ 250.30 State processing of donated foods.

* * * * *

(t) *Waiver authority.* The Food and Consumer Service may waive any of the requirements contained in this part for the purpose of conducting demonstration projects to test program changes designed to improve the State processing of donated foods.

Dated: April 6, 1995.

William E. Ludwig,
Administrator.

[FR Doc. 95-9085 Filed 4-12-95; 8:45 am]

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE-RM-94-403]

RIN 1904-AA67

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Three Cleaning Products

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Advance notice of proposed rulemaking; extending comment period for dishwashers.

SUMMARY: Today's notice is to extend the comment period for dishwashers for persons to comment on the Department's Advance Notice of Proposed Rulemaking concerning energy conservation standards for three cleaning products.

DATES: Written comments in response to this document must be received by September 30, 1995.

ADDRESSES: Written comments are to be submitted to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, "Energy Efficiency Standards for Consumer Products," (Docket No. EE-RM-94-403), Room 1J-018, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-7574.

Copies of the public comments received may be read at the Department's Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6020 between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Anthony T. Balducci, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE-431, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8459

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC-72, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9507.

SUPPLEMENTARY INFORMATION: The Department published an Advance Notice of Proposed Rulemaking for Energy Conservation Standards for Three Cleaning Products. (59 FR 56423, November 14, 1994). The Department published a notice extending the comment period for dishwashers until April 17, 1995. (60 FR 5880, January 31, 1995).

In its letter of March 24, 1995, to the Department, the Association of Home Appliance Manufacturers (AHAM), on behalf of its members, and the American Council for Energy Efficient Economy, the Natural Resources Defense Council, California Energy Commission, Pacific Gas and Electric, Seattle Water Department and American Water Works Association, and Southern California Edison, requested an extension of the deadline for written comments for dishwashers from April 17, 1995, to September 30, 1995. AHAM stated it and other interested persons need additional time for further data collection and analysis to respond adequately to the issues raised in the advance notice.

In addition, the above parties are engaged in discussions to develop a joint recommendation to the Department regarding standard levels for dishwashers. AHAM and the other organizations need the additional time to collect engineering, energy, and cost data. These data will be used in developing dishwasher standard levels to be recommended to the Department for adoption as part of this rulemaking. The substance and possible results of these discussions may significantly affect the nature of the comments on the advance notice. The extension of time for the comment period should not impair or slow the Department's ability to promulgate standards.

The Department encourages these discussions between AHAM, its members and non-industry persons. Based on these representations, the Department is extending the written comment period to September 30, 1995.